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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,890	12/22/2003	Roger F. Joyce	BIL100037000	1677
22891 7590 12/10/2007 LAW OFFICE OF DELIO & PETERSON, LLC. 121 WHITNEY AVENUE 3RD FLOOR NEW HAVEN, CT 06510			EXAMINER KWIECINSKI, RYAN D	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 12/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/743,890	Applicant(s) JOYCE ET AL.	
	Examiner Ryan D. Kwiecinski	Art Unit 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5 and 9-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-27 is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,428,925 to Snyder in view of US 4,493,118 to Braxton.**

#### **Claim 1:**

Snyder discloses a polymer composite basement door comprising:

a polymer composite (Column 4 line 38) frame (10, Fig. 1) positioned on a foundation surrounding an opening (20, Fig. 1) adjacent a building structure (22, Fig. 1), the frame having opposed triangular sidewalls (12, 14, Fig. 1) having a base (26, Fig. 1), vertical leg (vertical portion of side wall adjacent 22, Fig. 1), upper sloping surface (16, Fig. 1), end and inner and outer walls (Fig. 1) and a header plate (sloping portion of top adjacent 22, Fig. 1) connecting each sidewall, with the header plate and vertical leg adjacent the building structure (Fig. 1);

one or more polymer composite door leafs (40, 50, Fig. 1) hinged to the sidewalls (42, 44, Fig. 1) for movement between an elevated open position

providing access to the opening and a closed position covering the opening  
(Shown open and closed in Fig.1).

Snyder does not disclose a polymer composite basement door comprising one or more through openings in one or both of the sidewalls; and one or more inserts in the through opening.

Braxton discloses one or more through openings (opening covered by 45, Fig.1) in one or both of the sidewalls (the walls are made of a polymer composite material); and one or more inserts in the through opening (45, Fig.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have created the polymer composite basement door of Snyder et al. with one or more through openings with inserts taught by Braxton in order to provide a means for ventilation and lighting. Although Braxton does not directly teach the openings and inserts in basement doors, he does teach the openings and inserts in a polymer composite structure. Using this teaching in the construction of Snyder et al.'s basement door would have been obvious.

**Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,428,925 to Snyder in view of US 5,749,182 to Vavrinak in view of US 2,174,989 to Lyons.**

**Claim 5:**

Snyder discloses a polymer composite basement door comprising:

a polymer composite (Column 4 line 38) frame (10, Fig.1) positioned on a foundation surrounding an opening (20, Fig.1) adjacent a building structure (22, Fig.1), the frame having opposed triangular sidewalls (12, 14, Fig.1) having a base (26, Fig.1), vertical leg (vertical portion of side wall adjacent 22, Fig.1), upper sloping surface (16, Fig.1), end and inner and outer walls (Fig.1) and a header plate (sloping portion of top adjacent 22, Fig.1) connecting each sidewall, with the header plate and vertical leg adjacent the building structure (Fig.1);

one or more polymer composite door leafs (40, 50, Fig.1) hinged to the sidewalls (42, 44, Fig.1) for movement between an elevated open position providing access to the opening and a closed position covering the opening (Shown open and closed in Fig.1).

one or more accessible through openings in the base (34, Fig.3) for fastening the base to the foundation.

Snyder does not disclose and one or more accessible through openings in the legs for fastening the leg to the structure or to an extender nor does he disclose the through openings in the base to be elongated longitudinal slotted through openings.

Vavrinak teaches elongated longitudinal through openings in a flange secured to a foundation (A, Fig.1).

Lyons teaches one or more accessible through openings in the legs (holes on 22, Fig.1) for fastening the leg to the structure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the through openings in the base of Snyder's basement door to be elongated longitudinal slotted through openings taught by Vavrinak in order to provide leeway in the longitudinal direction for the installation of the fasteners as well as the movement of the basement door itself. Using elongated openings in flange mounts to foundations is well known in the art. The elongated slotted openings allow for expansion and contraction of the basement door assembly as well as provide easier installation with more longitudinal space to insert a fastener.

It is also obvious to one of ordinary skill in the art at the time the invention was made to have used the same technique in securing the base to the foundation as one would in securing the vertical legs to the building as taught by Lyons. Securing the basement door to the building structure with the use of through openings and fasteners is notoriously well known in the art.

***Allowable Subject Matter***

Claims 9-27 are allowed.

***Response to Arguments***

Applicant's arguments filed 26 September 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Braxton is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Braxton is reasonably pertinent to the particular problem with which the applicant was concerned. The Braxton reference discloses a polymer composite structure which has openings that include inserts in the openings to in fact solve the same problem as the claimed invention. Braxton is drawn to a collapsible toilet shelter, but the toilet shelter is a polymer composite structure, like the fiberglass bulkhead door, therefore it would have been obvious to have used the teachings of the openings and inserts in the polymer composite structure to allow airflow and/or light into the fiberglass bulkhead door.

Applicant argues that Vavrinak in combination with the other references does not disclose or teach the claimed invention, the Office disagrees. Vavrinak discloses elongated slots used to attach a synthetic resin material to a building or foundation. The elongated slots through which the fasteners pass in combination with the bulkhead doors of Snyder and Lyons disclose the claimed invention. Elongated slots are well known in the construction art to allow fasteners to be installed in different positions as well as allow for the structures to expand and contract due to changes in the weather.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan D. Kwiecinski whose telephone number is (571)272-5160. The examiner can normally be reached on Monday - Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



RDK

Robert Canfield  
Primary Examiner

